

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HARTFORD FIRE INSURANCE CO.,
Plaintiff,

vs.

EASTERN CONTRACTORS, INC.,
Defendant/Third-Party Plaintiff,

vs.

CITY OF LAWRENCE, CITY OF FALL
RIVER, AND FREETOWN/LAKEVILLE
REGIONAL SCHOOL DISTRICT,
Third-Party Defendants.

C.A. No. 03-12502 NMG

**THIRD-PARTY DEFENDANT/THIRD-PARTY COUNTERCLAIMANT, CITY OF
LAWRENCE'S, MOTION FOR LEAVE TO FILE AN AMENDED ANSWER AND
COUNTERCLAIM**

Third-Party Defendant/Third-Party Counterclaimant, City of Lawrence (the "City") hereby Moves For Leave of Court to file an Amended Answer and Amended Counterclaim in this action pursuant to Federal Rule of Procedure ("FRCP") 15. In support of this Motion, the City states the following:

FACTS

1. The Complaint in this action was originally filed in Federal Court for the District of Massachusetts on or about December 12, 2003.
2. Defendant/Third-Party Plaintiff, Eastern Contractors, Inc. ("ECI") filed its third-party complaint against the City on or about February 26, 2004.
3. The City filed its Answer and Third-Party Counterclaim on or about June 25, 2004.

4. In its Answer, the City admitted to having at the time paid to ECI the total amount of \$21,087,986.

5. The City has since reconciled its accounting records and now states that it has paid to ECI the total amount of \$21,393,579.36.

6. ECI filed its Reply to the City's Third-Party Counterclaim on or about March 16, 2005.

7. The City filed its Rule 26 Initial Disclosures on or about April 14, 2005.

8. In its Initial Disclosures, the City provided its estimated sustained damages attributable to Eastern.

9. The City has since April 14, 2005 incurred additional sustained damages attributable to Eastern, and now has actual current values for some of the values included in its Initial Disclosures.

ARGUMENT

FRCP 15 provides that "leave [to amend] shall be freely given when justice requires." FRCP 15(b) further permits amendments to the pleading to conform to the evidence. The City's Third-Party Counterclaim in this action needs to be updated to accurately reflect the amount the City has paid to ECI and the City's damages attributable to ECI.

Defendant/Third-Party Plaintiff ECI is not prejudiced by the City's Amended Answer to the Third-Party Complaint and Amended Third-Party Counterclaim. The City's causes of action have not been changed and ECI's legal and factual defenses should likewise remain unchanged. Accordingly, the City respectfully requests that this Court exercise its discretion and allow the City to amend its Answer to the Third-Party Complaint and its Third-Party Counterclaim.

Dated: April 3, 2006

Respectfully submitted,
Third-Party Defendant/Third-Party
Counterclaimant:
CITY OF LAWRENCE,
By its Attorneys,

/s/ Doreen M. Zankowski

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CERTIFICATE OF SERVICE

I, Doreen M. Zankowski, hereby certify that on this 3rd day of April 2006, this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

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